UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2000/41
25 February 2000

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 9 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in Rwanda submitted by the Special Representative, Mr. Michel Moussalli, pursuant to Commission resolution 1999/20

GE.00-10806 (E)

CONTENTS

		Paragraphs	Page
Executive summary			3
I.	INTRODUCTION	1 - 3	6
II.	MISSIONS OF THE SPECIAL REPRESENTATIVE	4 - 7	6
III.	GENERAL OBSERVATIONS OF THE SPECIAL REPRESENTATIVE	8 - 24	7
IV.	COOPERATION WITH THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS	25 - 27	10
V.	SECURITY IN THE NORTH-WEST AND THE REPATRIATION OF REFUGEES	28 - 44	11
VI.	BUILDING DEMOCRACY	45 - 53	13
VII.	CIVIL SOCIETY AND HUMAN RIGHTS	54 - 91	15
VIII.	THE CRISIS IN RWANDA'S PRISONS	92 - 133	21
IX.	THE JUSTICE SYSTEM	134 - 147	27
X.	GACACA	148 - 168	29
XI.	THE INTERNATIONAL CRIMINAL TRIBUNAL	169 - 179	32
XII.	RECONCILIATION	180 - 185	33
XIII.	HELPING SURVIVORS	186 - 193	34
XIV.	ECONOMIC AND SOCIAL RIGHTS	194 - 216	36
XV.	CONCLUSIONS AND RECOMMENDATIONS	217 - 241	39

Executive summary

Pursuant to Commission resolution 1999/20 and to his mandate, the Special Representative undertook four missions to Rwanda in 1999. His mandate is "to make recommendations on the situation of human rights in Rwanda, to facilitate the establishment and effective and independent functioning of the National Human Rights Commission and to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate". While the mandate therefore does not request him to monitor human rights in Rwanda, he has offered his observations and recommendations whenever this has seemed important and necessary. His main observations and recommendations can be summarized as follows.

General Observations. The Special Representative is deeply gratified that Rwanda is stepping out from the shadow of genocide and laying the basis for the transition to democracy. The Government is also to be commended for its efforts to eradicate ethnic labels and to promote reconciliation. On the other hand, there is not yet a full "culture" of human rights in Rwanda. The regional crisis remains relevant and extremely disturbing because the ongoing conflicts in the region create a deep feeling of insecurity and fear among the population and prevent efforts towards reconciliation and promotion of human rights.

Cooperation between the United Nations and Rwanda. The Special Representative is pleased at the growing support for human rights in Rwanda by the United Nations system. He warmly commends the assistance already provided by the High Commissioner for Human Rights to the Rwandan National Human Rights Commission. Hopefully, this will soon lead to a new memorandum of understanding, opening the way to further projects for technical cooperation. It is also to be hoped that UNDP will make more resources available in Rwanda, so as to implement some of the recommendations in this report.

Security in the north-west and the repatriation of refugees. Security improved noticably in north-west Rwanda in 1999, resulting in a corresponding decline in alleged abuses by the Rwandan armed forces. Despite several good harvests, 150,000 people remain vulnerable owing to lack of services. Some 32,000 refugees returned from the Democratic Republic of the Congo last year. There are no reports of systematic reprisals or coercion against returnees, but this does not diminish the need for monitoring by Rwandan human rights groups. Some have reported that civilians are being forcibly recruited into the armed forces in the north-west. They also note growing indiscipline among local defence forces, which are being formed by communities throughout Rwanda.

Civil society and human rights. Civil society is a major focus of the Special Representative's report. He is gratified that the National Human Rights Commission (NHRC) is now in a position to serve as the country's institutional focal point for human rights. He supports the NHRC's efforts to identify realistic priorities and to cooperate with donors with a view to seeking adequate resources and additional funding.

Rwanda's human rights groups are recovering from a difficult period. But their needs are great, and they remain totally dependent on foreign donors. The Special Representative suggests that both sides focus on strengthening the monitoring, advocacy and administrative capacities of

these groups. The Rwandan authorities could help with practical measures and a supportive legal environment. It is also important that the new law on NGO registration allow NGOs maximum flexibility and independence.

The crisis in Rwandan prisons. This year's report devotes considerable attention to detention. It is hard to comprehend that around 120,000 detainees are still crowded into jails and communal detention centres (cachots) five years into the transition - many without being charged. The Special Representative is pleased to report that he sees the possibility of a breakthrough in this dangerous problem. After taking over prison administration last year, the Ministry of the Interior has undertaken a series of bold moves to improve prison administration, train prison guards and expand community service by prisoners. Conditions are worse in the country's 154 cachots which are meant to be temporary and so have no services. These, too, will be taken over by the Ministry, but will require a budget for food and health. Overall, conditions remain unacceptable, and the Special Representative would urge the authorities to accelerate the release of the elderly, the chronically ill, pregnant women and children. The Special Representative's own findings suggest more releases would be possible if communities were consulted in advance.

The Special Representative is gratified to see a trend towards greater involvement in the cachots by international NGOs. In general, however, governmental donors are still reluctant to get involved. The Special Representative strongly appeals to donors to review this policy, and to treat prisons as an integral part of Rwanda's overburdened justice system. Otherwise, they will remain a highly visible symbol of abuse and a barrier to reconciliation.

The justice system - gacaca. In an effort to speed up trials, accelerate releases, identify génocidaires still at large and allow the whole population of Rwanda to participate in a judicial process which will remove impunity and promote reconciliation, the authorities will shortly institute a system based on traditional justice in the Rwandan communities, known as gacaca. Trials could start as early as June, and affect as many as 100,000 of those detained. The Special Representative applauds the boldness of this proposal. At the same time, he notes that concerns have been raised about the logistics of gacaca, as well as its conformity with international legal standards. The Special Representative would argue that much can be done to minimize the risks. He recommends, in particular, that gacaca be launched in a limited number of locations so as to test the practicalities. Such a gesture, however, would have to have substantial support from donors lest their doubts become self-fulfilling. The Special Representative hopes that international support for gacaca will be coordinated and discussed in the context of justice as a whole.

Reconciliation. Rwandans now accept that reconciliation must be a national goal in its own right, and with this in mind the Government last year established a Commission on National Unity and Reconciliation (NURC). The Commission has quickly made its mark and initiated a nationwide dialogue at the grass roots, and the Special Representative appeals to donors to support its work. He would also applaud Rwandans of all backgrounds for their heroic efforts in putting the past behind them and learning to live together.

Helping survivors. There is a strong moral and practical argument for helping the survivors of genocide in Rwanda, and the Special Representative is distressed to report that

many feel abandoned by the international community. He appeals for more imagination, and assistance, from donors. One possibility might be a new fund to provide legal restitution for civil claimants in genocide cases. Another could be funding survivors' groups to compile the names of those who died - an essential form of memorialization. He also supports the kind of initiative in which prisoners are let out to perform community service. These acts of penance promote reconciliation as well as the physical well-being of the prisoners.

Social and economic rights - children. Rwanda's children suffered terribly under the genocide, and those who survived still bear the scars. But it is also time to start looking beyond genocide and understand the wider needs of Rwanda's children - those orphaned by HIV/AIDS, those victims of sexual violence, and those working in the streets. The needs of these children can be viewed in terms of protection and child rights, which underscores the value of the Convention on the Rights of the Child. Rwanda ratified the Convention in 1991, but is five years behind in submitting a second report on its implementation of the Convention. UNICEF is urging the Government to undertake this important task. UNICEF would also like to see vigorous action taken on several new or partially drafted laws.

Social and economic rights - villagization. Rwanda is in the middle of a controversial debate on land and settlement. There is growing pressure on the land in Rwanda, and the Government argues that regrouping Rwandans in village settlements will better facilitate their access to basic services. Out of these different elements has come an ambitious policy of collective resettlements known as imidugudu, or villagization. Concern has been expressed regarding possible coercion. The Special Representative's mission was able to visit three villages in different parts of the country. The mission found that while some coercion probably had occurred, the larger problem was a lack of services. Many settlers would happily take up the offer of a new house if proper services were assured in advance. He therefore encourages the Government to establish a joint programme with donors to improve services in existing villages and develop new pilot sites throughout the country. The location could be left to the newly elected development councils.

Peace, security, economic development and human rights. These are fundamental and interlinked requirements of any human society. No culture of human rights can really take root in any country, in any region, without ensuring that peace, security and economic development prevail for all populations. This is particularly relevant in post-genocide Rwanda. It is therefore of the utmost importance that a comprehensive regional solution is found to the present conflicts affecting the countries in the Great Lakes region of Africa. The Special Representative appeals to all the countries in the region, to the Organization of African States and to the United Nations to use all possible means to ensure that a lasting and comprehensive peace is agreed upon by all the affected countries, and that all the populations in the area are provided with security and with appropriate means to ensure their economic development and prosperity.

I. INTRODUCTION

1. In its resolution 1999/20, the United Nations Commission on Human Rights decided to extend the Special Representative's mandate[1] for a further year and requested him to report to the General Assembly at its fifty-fourth session and to the Commission at its fifty-sixth session. In particular, the Commission encouraged the National Human Rights Commission to organize, with the assistance of the Special Representative, a round table to develop a plan of action for the promotion and better protection of human rights in Rwanda, urged the Government of Rwanda to work with the Special Representative to facilitate this meeting and called on the international community to provide all necessary assistance (para. 27). The Commission further called for close regular consultation between the Special Representative and the Government of Rwanda, the National Human Rights Commission, and all relevant national institutions, regarding the functioning of the National Human Rights Commission (para. 33). In paragraph 30 of resolution 1999/20, the Commission commended the establishment of the National Unity and Reconciliation Commission and urged that international support be provided to enable the Commission to achieve its objectives. The present report, submitted in accordance with resolution 1999/20, is the sixth submitted by the Special Representative pursuant to his mandate.

2. The Special Representative wishes to emphasize that this mandate does not ask him to monitor human rights abuses or violations; rather, it asks him for a broad picture of the situation of human rights, and to advise on how to strengthen the capacity of Rwandan human rights institutions and civil society whose tasks will, of course, include monitoring. Where the Special Representative has found it important and useful, he has offered his opinion on difficult human rights issues in the country.

3. In the discharge of his mandate the Special Representative is guided by three fundamental considerations: (a) to try to comprehend fully the post-genocide trauma that has affected Rwandan society since 1994; (b) to try to help and encourage the country and all its people in their efforts to recover from this tragedy; (c) to be as objective and constructive as possible in proposing recommendations to address real problems in the field of human rights.

II. MISSIONS OF THE SPECIAL REPRESENTATIVE

4. The Special Representative undertook four missions to Rwanda in 1999, in pursuance of the objectives of his mandate. In each case, he was accompanied by a special assistant and by the Desk Officer for Rwanda of the Office of the High Commissioner for Human Rights (OHCHR). He travelled again to Rwanda in January of this year. The Special Representative wishes to express his deep gratitude to Mr. Iain Guest, his Special Assistant, who greatly helped him in the preparation of this report, and for the support provided to him by OHCHR and, in particular, by the Desk Officer.

5. The Special Representative also wishes to express his deep gratitude to the Government of the United Kingdom of Great Britain and Northern Ireland for providing support to his mandate. In addition, he would like to thank the United Nations Resident Coordinator and the United Nations Development Programme (UNDP) Resident Representative in Rwanda, and all the staff of that office for the most valuable support which they extended to him and his team on all occasions.

6. In collecting information during the five visits for the preparation of the present report, meetings were held with a wide range of personalities from various sectors of Rwandan society: branches of the Government, civil society, members of diplomatic missions, members of United Nations agencies, as well as national and international non-governmental organizations. These interlocutors included the President of the National Assembly, the President of the Supreme Court, the Prime Minister, the three successive Ministers for Foreign Affairs, the Minister of Justice and his Permanent Secretary, the current and former Ministers of Gender and Women in Development, the Minister of State in the Office of the President, the Minister of Social Affairs, the Special Adviser to the Vice-President, the Minister of Internal Affairs and his Permanent Secretary, the Chief Prosecutor, the Military Prosecutor, the President of the Rwandan Bar Association, the Presidents of local human rights NGOs, notably of the Committee of Human Rights Leagues and Associations (CLADHO), the League for the Promotion and Defence of Human Rights in Rwanda (LIPRODHOR), the Association rwandaise pour la défense de droits de l'homme (ARDHO), l'Association des volontaires pour la paix (AVP), the Rwandan Association for the Defence of Human Rights and Freedoms (ADL), Kanyarwanda and the League for the Rights of People in the Great Lakes Region (LDGL), representatives of Avocats sans Frontières (Lawyers without Borders), the President and all members of the National Human Rights Commission, the Chairperson and the Executive Secretary of the Commission for National Unity and Reconciliation.

7. The Special Representative and his colleagues travelled widely in Rwanda in preparation for this report. They met with officials and returning refugees in the north-western prefectures of Ruhengeri and Gisenyi. They visited new settlement villages (imidugudu) in the prefectures of Kibungo and Umutara. They also visited two prisons in the prefectures of Butare and Kigali rural, the detention centre for children at Gitagata, and several communal detention centres (cachots).

III. GENERAL OBSERVATIONS OF THE SPECIAL REPRESENTATIVE

A time of transition

8. The Special Representative is gratified to be able to report that Rwanda is stepping out from the shadow of genocide. Although this terrible crime must never be forgotten, the Rwandan people are taking vigorous steps to ensure that it no longer impedes the development of their nation. This report describes a country that is growing in confidence and laying the foundations for a democratic society. As the Government of Rwanda acknowledges, this must include a central place for human rights. In a meeting with the Special Representative, a government minister described human rights as the Government's "raison d'être".

9. The emergency is receding, giving way to new challenges which promise a new relationship between Rwanda and its international friends. Bilateral donors are talking of partnership rather than aid, aware that this involves responsibilities on both sides.

10. The United Nations system also has much to offer Rwanda in this period of transition. Relations between the United Nations and Rwanda have been strained since 1994, but the Special Representative hopes that a new start can be made following the publication

on 15 December 1999 of the Report of the Independent Inquiry into the Actions of the United Nations during the 1994 Genocide in Rwanda (also known as the "Carlsson Inquiry"). That the United Nations had failed to prevent, and then to stop the genocide was a brave admission by the Organization which, however, needs to be followed up by concrete support. A start could be made by contributing to reparation for survivors of genocide, as recommended by the Independent Inquiry.

Laying the foundations for democracy

11. Since the Special Representative's last report to the Commission (E/CN.4/1999/33), the National Assembly of Rwanda has extended the period of transition from genocide to democracy by another four years. The Special Representative feels bound to observe that during this extension period, the international community will be closely watching the Government's efforts.

12. In this respect, the Special Representative is pleased to note several positive developments over the past year. These include successful local elections; the establishment of two new commissions (on human rights and on national unity and reconciliation); the first steps towards drafting a new constitution; a new law to professionalize the civilian police force; a revision of the 1991 press law; the adoption of a law allowing women to inherit property; a growing commitment to good governance (as manifested in the arrest of several prison administrators on charges of corruption); increasingly effective supervision by parliament over all aspects of government; and a proposal to use traditional justice (gacaca) in an effort to speed up genocide trials. Taken together, these initiatives signal a clear movement towards democracy and reconciliation.

Creating a culture of human rights

13. In spite of the progress, there is not yet a full "culture" of human rights in Rwanda. This must start with dialogue and debate - and dialogue requires accurate regular information from Rwanda's human rights groups. The Special Representative is gratified that these groups are emerging from a period of self-doubt and disorganization. Working with other partners in Rwandan civil society, they should be encouraged to monitor the entire range of human rights. But this will require a strengthening of their management capabilities. They should also benefit from the establishment of the new, independent National Human Rights Commission in May 1999. The Commission's seven members are already moving to fulfil the high expectations placed in them by civil society.

Structural challenges to human rights

14. Looking further ahead, Rwanda faces a series of structural challenges to human rights. One is freedom of movement. Rwandans are linked to their communes by a system of compulsory registration and identity cards. This restricts freedom of movement. It also serves as a barrier to a flexible labour market and economic development, as the 1998 World Bank report on poverty in Rwanda attested.

15. Freedom of opinion and expression is linked to a free press. The media has still not recovered from the perception that it aided and abetted the genocide, but its importance in ensuring transparency cannot be questioned. This report contains several observations on how to ease obstacles to an effective press while ensuring that it remains responsible.

Changing attitudes

16. The Special Representative wishes to commend the Government for its efforts to eradicate the ethnic tensions that have proved so destructive in the past. Ethnic labels have been removed from ID cards, key government posts are shared between ethnic groups, thousands of soldiers from the former military (ex-Forces armées rwandaises, FAR) have been integrated into the national army. The National Unity and Reconciliation Commission is leading the attempt to expunge ethnic ideology from community life.

17. These are commendable steps, but it will take more to transform Rwandan society. Many talk of the "blind obedience" that was exploited by those who planned the 1994 massacres. The best antidote to this is a spirit of independence at the community level. Civic associations - particularly those working for human rights - are starting to show the way, drawing on the resilience that is helping Rwandans to recover from genocide.

The regional dimension

18. Human rights in Rwanda are inextricably linked to security throughout the Great Lakes region. Traditionally, tension in Rwanda's neighbours has spilled over into Rwanda, in the form of rebel incursions or a heavy-handed response by the authorities.

19. The Special Representative is concerned at the deterioration in Burundi, and the apparent strengthening of extremists in that country. He is also deeply concerned that Rwandan interahamwe are reportedly receiving training and arms in some African countries. It will be hard to secure the withdrawal of Rwandan forces from the Democratic Republic of the Congo as long as the interahamwe continue to be perceived as a threat.

20. The signing on 10 July 1999 of a peace agreement in Lusaka, and its subsequent adoption by opposition groups in early September, is an important step towards ending the fratricidal war in the Democratic Republic of the Congo. The peace process has been uneven, but military observers are being deployed in the Democratic Republic of the Congo and a respected international facilitator has been appointed to the peace process. The special session of the United Nations Security Council on 26 January will have further focused efforts on securing peace.

21. Among the root causes of regional tension, the Special Representative would draw attention to the pernicious tendency to deny nationality on the basis of political motives. As well as violating international law, this provokes refugee movements. It must be firmly on the agenda of peace talks.

22. The Special Representative also wishes to commend recent efforts by civil society to support regional peace efforts. These include a meeting in Kigali on nationality, organized by

the League for the Rights of People in the Great Lakes Region (LDGL); a meeting of indigenous NGOs from the region convened by Rwanda's Batwa people; and a round table on human rights education in Kigali that brought together NGOs from Burundi, the United Republic of Tanzania, the Democratic Republic of the Congo, Uganda and Kenya. In another important development, the Rwandan Womens' Committee for the Lusaka Peace Process, comprised of women from civil society, held its first meeting in Kigali in December. The Committee was to reconvene in Washington in February with support from the United States Government.

23. Such initiatives use human rights to break down distrust and build regional links between elements of civil society. In so doing, they underpin the peace process. The Special Representative commends the organizers, and the donors that provided support.

24. In sum, he would reiterate his permanent concern: promotion and respect of human rights in the Great Lakes region of Africa, including Rwanda, can only succeed in the long term if a lasting regional solution is found to the conflicts in the area.

IV. COOPERATION WITH THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

25. The Special Representative is pleased to observe and support the steps which the Office of the High Commissioner for Human Rights, on the one hand, and the Government of Rwanda, on the other, have taken to safeguard the primacy of human rights in Rwanda. As will be recalled, the Special Representative has underlined the serious problems caused by the departure of the United Nations Human Rights Field Operation for Rwanda (HRFOR). Both parties acknowledged their inability to reach agreement on the issue of "monitoring" human rights in the country. They did, however, agree that more emphasis needed to be placed on capacity-building, technical cooperation, training and education.[2]

26. The Special Representative is pleased to report that an uninterrupted dialogue has resulted in concrete measures by the High Commissioner. These include supporting the training of members of the National Human Rights Commission in Strasbourg, and the successful holding of the round table held by the Commission in Kigali (12-16 October 1999). The Special Representative hopes that both sides will soon work out a new memorandum of understanding, opening the way to further projects for technical cooperation.

27. In this context, he would also underline that Rwanda can well benefit from the implementation of the 1998 global memorandum between OHCHR and the United Nations Development Programme (UNDP). Many of the proposals in this report need follow-up, implementation and supervision by the United Nations system in Rwanda, and all of this falls most naturally to UNDP. As of writing, however, the UNDP Unit on Justice and Human Rights comprised only one international staff member. A possible role for the Unit is addressed below in the section on recommendations.

V. SECURITY IN THE NORTH-WEST AND THE REPATRIATION OF REFUGEES

Security

28. Security has been the key to human rights in Rwanda since 1994. There is, first, the direct link between security in the region and human rights in Rwanda, referred to above. Fighting diminished in the eastern Democratic Republic of the Congo in 1999, and this meant a reduction in the number of incursions of armed infiltrators into north-west Rwanda.

29. An exception - hopefully isolated - occurred on 23 December, when armed interahamwe crossed from the Democratic Republic of the Congo and attacked the resettlement site of Tamira, in Muturu commune (Gisenyi), killing 29 persons and wounding another 40. The attack was carefully planned and the victims carefully selected. While the authorities are treating it as a one-off event, it was a clear sign that the interahamwe remain active in the Democratic Republic of the Congo and another reason for bringing peace to that country and ending the threat from the interahamwe once and for all. In one United Nations security briefing in Kigali, it was pointed out that the Tamira attack occurred immediately after an incident near Bukavu (Democratic Republic of the Congo) in which several women were reportedly buried alive by Congolese rebels.

30. The overall improvement in security in the north-west has led to a corresponding decline in alleged abuses by the Rwandan armed forces. This was confirmed by the Special Representative's own mission last August, which found the mood in Ruhengeri and Gisenyi to be noticeably calmer than when he visited in January 1999. In another sign of improved security, delegates from the International Committee of the Red Cross (ICRC) travel virtually everywhere in the north-west without armed escort.

31. But this does not lessen the importance of monitoring by Rwandan and international human rights groups, and of investigations by the authorities. A recent report by the League for the Promotion and Defence of Human Rights in Rwanda (LIPRODHOR) named three military detention centres where civilians are reportedly held. It also reported cases of forced recruitment into the army and even of persons forced into labour on behalf of the army. The Special Representative hopes these reports will be investigated.

32. He also received expressions of growing concern among human rights groups, aid officials and diplomats about the activities of the local defence forces (LDF), said to be formed and armed by villages in order to ensure security. These local militia are unpaid and appear to receive between three and four weeks of basic training. Some are reported to be very young.

33. According to the Minister of the Interior, LDF are answerable to prefects, who are under the Ministry of Local Government, but are trained and armed by the police (Ministry of Interior). They are supposed to report any incident or alleged infiltrator to the local police. The concern is that this chain of command may be too diffuse to ensure proper accountability. Already, there are growing reports of drunkenness, indiscipline and even abuse against civilians.

34. While the formation of militia may be understandable in the north-west as long as the interahamwe is active in the Democratic Republic of the Congo, LDF are expanding rapidly throughout Rwanda. The Special Representative must point out that civil defence forces have caused violations elsewhere and that the interahamwe itself started as a local defence organization in Rwanda. He therefore urges the Government to ensure that the LDF are properly controlled and accountable. It would help to forestall speculation, and even incidents, to have their role investigated and explained clearly by a Rwandan body such as the National Human Rights Commission. Certainly, civil defence is no substitute for a disciplined, professional police force.

35. Security can also be viewed in a larger sense, as a state of mind. In one important discussion, the senior adviser to the President of Rwanda told the Special Representative that the threat to security was no longer sufficiently serious to stand in the way of the Rwanda's transition. This positive development should permit the authorities to deal more confidently with the issues reviewed in this report: the return of refugees; the private ownership of land; freedom of movement, choice and expression; releases from jail. All have been held hostage to security considerations.

Human rights and the humanitarian emergency

36. Over the past three years, human rights and humanitarian concerns have merged in the north-west of Rwanda. This now appears to be changing, as the emergency recedes.

37. The crisis has gone through several stages. In 1998 an estimated 600,000 Rwandans were displaced by fighting in the north-west and moved into camps. Conditions deteriorated to such an extent that an international appeal was launched by the Office for the Coordination of Humanitarian Affairs (OCHA). By June 1999 donors had given $26 million.

38. After the camps were disbanded, the displaced moved into 183 villages under the policy of group settlements (imidugudu). One government study in June 1999 found that 11 per cent of the population were still suffering from severe malnutrition, with the figure rising to 17 per cent in more remote communes. This was attributed to late planting, damage to health infrastructure from fighting, and separation from land.[3] It prompted an extension of the OCHA appeal in July for a further $19 million.

39. The crisis has now improved as a result of good harvests and improved security, to such an extent that OCHA is recommending that the appeal be suspended. A total of $9.8 million has been provided by donors. At the same time, OCHA warns that 90,000 people are lacking basic services in Ruhengeri, and 60,000 in Gisenyi. There is some controversy over whether the policy of villagization is deepening their vulnerability by depriving them of access to land. This is discussed elsewhere in this report.

Return of refugees

40. Rwanda's refugees have long been a visible symbol of Rwanda's divisions, but there are now clear signs that this long and agonizing crisis may be drawing to a close. The number of Rwandans still in exile has fallen from over 3 million to less than 100,000. During 1999, another 38,228 returned to Rwanda from neighbouring countries.

41. The focus of concern remains the eastern Democratic Republic of the Congo and north-west Rwanda. In 1999, 32,087 Rwandans returned from the Democratic Republic of the Congo and this process was carefully monitored by the Special Representative for confirmation that it was voluntary.

42. The Office of the United Nations High Commissioner for Refugees (UNHCR) has re-established an office in Goma, and is able to collect refugees from several collection points and transport them directly across the Rwandan border to the reception centre of Nkamira, near Gisenyi. Based on interviews with returning refugees, UNHCR officials are confident the process is voluntary, and indeed that many more Rwandans would return if they could. Indeed, the Special Representative's mission was told by UNHCR that many Rwandans appear to be held hostage by militia in the Democratic Republic of the Congo. Others report having been forced to work in slave-like conditions on Congolese farms. Between 30,000 and 60,000 Rwandans may be in the eastern Democratic Republic of the Congo. It is important for peace in the region that they be given the chance to return.

43. The reception and reintegration of refugees inside Rwanda has also improved steadily during the year. For the first few months, the refugees were transported by a Congolese group and many were dropped at a centre in Gisenyi town known as ETAG. Here, according to one report, several women and girl returnees were raped by government soldiers in May. There have been no further reports of such incidents since UNHCR took over repatriation and brought the refugees directly from the Democratic Republic of the Congo to Nkamira.

44. There remain other refugee issues in Rwanda. There are some 32,000 persons from Masisi, Democratic Republic of the Congo, in Rwanda, and although some are returning without UNHCR supervision conditions do not yet permit them to return to their homes. There is also movement across Rwanda's border with the United Republic of Tanzania, to the east. According to UNHCR, Rwandans are still reportedly leaving for Tanzania, while refugees in Tanzania are reluctant to return. This needs investigation.

VI. BUILDING DEMOCRACY

Local elections

45. The five-year transitional period for recovery from genocide expired on 19 July 1999. This was extended by the Government of Rwanda for another four years on the grounds that more time is needed to promote reconciliation and complete drafting of a new constitution. This will result in more scrutiny of the process of transition.

46. One important benchmark has already been achieved, with the holding of elections for local Executive Committees in March 1999; 158,864 committee members were elected at the level of cells and of sectors.[4] They are now responsible for matters relating to education, health, social affairs, gender, youth and culture, development, security, information and finance.[5] Representatives from the international community, who formed an unofficial observation team under UNDP, were impressed by the logistical achievement of organizing elections of this magnitude in less than two months.

47. The March elections also provided a foretaste of the elections for gacaca judges, which makes the selection methods particularly important. Candidates were determined eligible on the basis of their education and general standing in the community. There were no political party affiliations, and no campaigning. Each candidate had two to three minutes to speak, and voters lined up behind the candidate of their choice. According to an informal UNDP estimate, the turnout was between 80 and 90 per cent. Often voters waited in line for hours while votes were counted.

48. The involvement of women candidates deserves particular attention. In one commune visited by the Special Representative's mission (Karago in Gisenyi prefecture) only 18 of the 270 local committee members elected were women. This contrasted with another commune, Musambira in Gitarama prefecture, where the Special Representative's mission met with the leaders of a women's organization known as COCOF (Women's Consultative Committee). COCOF has 2,055 individual members and several stood successfully for elections. This resulted in a significantly higher number of women committee members than the national average, suggesting that economic activity by women might translate into greater political representation.

49. The Special Representative also commends the efforts of the Government, supported by UNDP, to provide post-election education and training for elected representatives. The local committees will evolve into important partners of aid agencies.

50. Later this year elections for the post of district mayor (bourgmestre) and other municipal officials will be held. The Special Representative was gratified to hear that political parties and campaigning will apparently be permitted and that the ballot will be secret. This would constitute an important step forward on the road to parliamentary elections in the year 2003.

Parliamentary oversight

51. One of the most encouraging developments of the past year has been the emergence of the National Assembly (parliament) as an independent body, determined to exercise oversight over Government. The Assembly established a commission on corruption, which forced the resignation of three ministers. It has initiated some laws (e.g. on violence against children) and redrafted others. It rigorously questioned ministers during preparation of the national budget. As well as gratifying Rwanda's donors, this insistence on accountability helps to create a foundation for human rights and respect for the rule of law.

52. The National Assembly also played an essential role in the creation of the National Human Rights Commission and of the Commission on National Unity and Reconciliation. It is

now considering a law to establish a commission which will be entrusted with the drafting of a new constitution. The Special Representative had several friendly meetings with the President of the National Assembly and members of his parliamentary committees and was impressed by their commitment to promoting human rights. The President has since been replaced. It is hoped that his successor will prove equally vigilant.

53. Nine deputies sit on the parliamentary committee on human rights[6] of the National Assembly. Its President is from the human rights community, and in a meeting with the Special Representative he outlined ambitious plans to support human rights groups, visit new settlements, and cooperate with the two new National Commissions (on human rights and on unity and reconciliation). The Special Representative very much hopes that resources can be found to make this possible.

VII. CIVIL SOCIETY AND HUMAN RIGHTS

Civil society in action

54. Civil society plays an essential role in the promotion of human rights. It need not even take the form of organizations. What is needed first and foremost is a spirit of independence, and a determination to make a difference. The Special Representative's mission met many Rwandans who fall into this category. He recalls the chemist in Gisenyi who saw street children sleeping outside her pharmacy and raised donations to open a home (Avorwad). Almost all the children have been reunited with their parents.

55. The Special Representative was also impressed by the Association of Rwandan Journalists which hired a lawyer when one of their members was jailed for accusing a high official of corruption. He applauds the persistence of the survivors of genocide, whose organization IBUKA has a reputation for outspoken advocacy, and of women's initiatives like AVEGA (for widows of genocide) and ASOFERWA (the Association of Rwandan Women). They refuse to accept the unacceptable. They are the best hope for enduring democracy and the protection of human rights.

The National Human Rights Commission

56. The Special Representative notes with great satisfaction that Rwanda now has an active and independent National Human Rights Commission (NHRC) able to take its place in civil society and serve as the country's institutional focal point for human rights. As is known, the Special Representative has strongly supported the NHRC since the start. He now offers his services to help it fulfil its mandate, and the high hopes placed in it by the Rwandan people.

57. The NHRC was established by law in January 1999 and finally constituted on 24 May 1999, when its seven members were elected by the National Assembly from a list of 10 candidates submitted by the Government. The fact of its having been created by a legislative process gives the NHRC considerable authority. The law also gives it a strong mandate by ensuring its independence and calling on it to investigate violations and sensitize and train the Rwandese population in matters of human rights.[7] The Special Representative is pleased to note

that the law recognizes the need to attract the most qualified commissioners, and to ensure their full independence.[8] He further notes that the NHRC budget is placed within the national budge

58. The Special Representative and his colleagues have had many meetings with the commissioners, both in Kigali and in Geneva, and he is impressed by their determination to listen, learn and act. He has also appealed for international support for the NHRC, and is please that the High Commissioner for Human Rights was able to provide funds for the seven commissioners to attend a four-week training course on human rights at the International Institute for Human Rights in Strasbourg. Upon its completion, they visited Geneva and met with the High Commissioner and her staff.

59. The last six months has been a time of consolidation for the NHRC. It organized a successful four-day public round table in Kigali, from 12 to 16 October 1999, with financial and technical support from the Office of the High Commissioner, the UNDP office in Rwanda and the Special Representative. The round table allowed the new members of the NHRC to meet an share views with colleagues from other parts of the world and representatives from the National Assembly and the Government, the Rwandan judiciary and civil society. The Special Representative expresses his appreciation to the Government of Switzerland for financing the publication of the final report of the round table, which has been widely circulated and helped to promote the work of the NHRC.

60. Following the training in Strasbourg and the round table, the NHRC elaborated a work plan up to the year 2002. It is now proceeding along two parallel tracks. On the one hand, the commissioners are refining their own internal procedures, recruiting staff and developing operational guidelines. They have divided responsibilities (social and economic, juridical, promotional and other aspects). As they pointed out to the Special Representative's delegation during meetings in Kigali in January, all this takes time.

61. At the same time, the NHRC is receiving petitions on a wide range of issues, undertaking inquiries, and reaching out to Rwandans. The petitions have come from relatives of people arbitrarily detained or who have allegedly disappeared, asylum-seekers and persons involved in property disputes. They have even included questions about sexual preference, which is a new and sensitive issue for Rwanda. At the request of a Rwandan human rights group, the NHRC traced and found two persons reported to have disappeared in prison. It has also mediated in a property dispute.

62. The NHRC has also expressed concerns at the 18-month duration of the new extension on preventive detention and submitted these in writing to the National Assembly. The commissioners will continue to press for improvements in the law. In an effort to promote human rights and spread the word about their work, they have visited 11 of the 12 prefectures and met with hundreds of representative individuals from all walks of society.

63. The Special Representative is gratified at this progress. He is also gratified by the interest shown by donors, who - at his request - have organized an informal working group in Kigali to periodically review their cooperation with the NHRC, in conjunction with the UNDP Justice and Human Rights Unit. At the same time, however, it was made clear to his mission during a visit to Kigali in January that some donors would like to see a greater sense of urgency

in the NHRC, more concrete results and a clearer sense of priorities, these include such issues as alleged compulsory recruitment of young people into the armed forces, villagization and local defence forces. In general, the donors clearly need to be better informed about the NHRC's activities and its interaction with Rwandans. In addition to its annual report (due out in March) the NHRC intends to issue regular written bulletins.

64. The Special Representative understands both perspectives. He agrees with the NHRC that it cannot embark on sensitive human rights investigations without clear operational guidelines, and that commissioners need time to develop programmes both individually and as a team. On the other hand, he also understands the donors' desire to see results and receive realistic project requests. The Commission has been allocated by the Government a budget of around $1.8 million for this year. In seeking more funding from donors, it has to address their concerns.

65. At a meeting of the donors and representatives of the NHRC held on 21 January 2000, it was agreed that cooperating on a specific project would help to build a working relationship. The NHRC suggested a study setting out who is doing what in the field of human rights, with a view to identifying gaps and needs. This proposal will now be explored by the NHRC and bilateral donors. Once the relationship gathers momentum, there will certainly be no shortage of suggestions for the NHRC. Several were made to the Special Representative's delegation in January and are included in his recommendations.

66. The Special Representative is convinced that technical assistance would greatly help the NHRC to develop projects. He welcomes UNDP's offer to fund for the NHRC two national staff for a 12-month period and one international consultant for an initial four-month period. Hopefully, these persons can be recruited quickly. He has also suggested that the Irish NGO Trocaire, which has a programme of capacity-building with Rwandan human rights groups, make its expertise available to the NHRC.

67. The Special Representative remains ready and willing to help the NHRC. The Commission is evidence of Rwanda's commitment to the development of a culture of human rights and the ending of a tradition of impunity. He urges and encourages the international community to support its efforts.

Rwandan human rights groups

68. One of the Special Representative's principal goals is to encourage local human rights groups. It has been a difficult decade for these organizations. Most were established in the early 1990s, and all lost members to the genocide. They enjoyed a revival during the presence of the Human Rights Field Operation in Rwanda (HRFOR), which offered them valuable support. With the departure of HRFOR they slipped into disputes over internal problems, alienating their donors.

69. The Special Representative is relieved that these human rights defenders are showing signs of renewed vigour and confidence. He said as much at a meeting with representatives from eight organizations at the UNDP office in Kigali last August, praising them for their work and

suggesting ways that they could cooperate with the NHRC and receive its support. But this would depend on improving their capacity, which still suffers from several serious weaknesses in the following areas.

70. **Monitoring**. All of the human rights groups are based in Kigali, except the LDGL. Few, if any, are able to report regularly on events outside the capital. There is also little consistency between their monitoring methods.

71. This is beginning to change. Three groups have developed urgent action procedures. Increasingly, they are working together on sensitive cases. LIPRODHOR has the most extensive system of monitoring. Its staff has visited almost half of the country's 154 cachots. It also monitors the genocide trials and produces a professional newspaper (Verdict) on the trials. With funding from the Government of the Netherlands, LIPRODHOR also follows up on persons released from jail. By September 1999, it had interviewed 982 out of the 4,247 persons released.

72. This kind of monitoring provides essential guidance for the Government and donors. But it requires a greater capacity, and it has to be said that even LIPRODHOR's monitoring is weak compared to that of other countries. In an effort to strengthen its monitoring, LIPRODHOR held a training session for its teams in the north-west during the Special Representative's August visit, with funding from the Government of the Netherlands. The Government of Switzerland has purchased a vehicle that allows ADL to conduct urgent interventions. The Government of Canada has provided the funds for Verdict. Such projects are low in cost but important, because they strengthen the monitoring capacity.

73. **Money and membership.** Rwandan human rights groups are totally dependent on a small group of international donors for support, and this is unlikely to change. Any attempt to levy fees on members will merely discourage new members. The Special Representative would like to commend the donors that support these groups. But he would also ask that they build more institutional costs into projects and design projects for longer periods than six months (the average). These groups need core funding if they are to thrive.

74. The Special Representative would also draw attention to the importance of donor coordination. He heard that groups "shop around" for support and that a clear picture of their needs never quite emerges. This calls for closer coordination between donors, and could point to a role for the Justice and Human Rights Unit established by the UNDP in Kigali.

75. **Acting on information.** Even when groups receive accurate information, they often lack an institutional channel for it. (Some have developed personal relationships with individual ministers, but these are broken when there is a Cabinet reshuffle.) It is hoped that the National Human Rights Commission can play such a role.

76. In their meeting with the Special Representative, several groups emphasized the importance of human rights education. The Special Representative concurs, but notes that this also requires a technical capacity. LIPRODHOR has the ability to prepare radio spots, but has been refused permission to run its own radio station. Opening up the airwaves would benefit human rights.

77. It also emerged that many human rights groups do not have basic human rights texts, and are also often the last to receive important government papers and draft laws. Few, if any, read the Special Representative's reports. This is a commentary on their isolation from the flow of information. On the Rwandan side, the umbrella organization CLADHO would be well placed to coordinate information-sharing in cooperation with the National Human Rights Commission.

78. **Management.** Without any doubt, the single greatest impediment to the development of a strong human rights community is weak management and administration. These groups are also heavily - even excessively - dependent on individuals. Executive secretaries find themselves managing several projects, running the office, heading field missions, briefing visiting missions, attending conferences and even travelling abroad. If an executive secretary is replaced or resigns in difficult circumstances, as recently happened to one prominent organization, it can prove profoundly unsettling.

79. The Special Representative hopes that donors will make a concerted effort to improve the management capacity of Rwanda's small but energetic human rights community. In October, Trocaire held a workshop for nine human rights groups to help them identify needs and plan a programme of capacity-building.

80. One new and noteworthy element is information technology. This offers obvious benefits to small groups that are starved of information and need to communicate. Several Rwandan human rights groups have access to e-mail but find it hard to exploit. Part of this is due to the limited service offered by Rwandatel, which has a monopoly as the only service provider, part is due to unfamiliarity with new information technology.

81. The Special Representative hopes that the Government will deregulate and permit the development of independent service providers, which would allow civic associations and individuals better access to the Internet. He would also strongly urge that private radio stations be permitted to transmit. He knows of at least one human rights group that has prepared radio programmes on human rights, but has been prevented from transmitting.

Freedom of the press

82. Rwanda's press has a crucial role to play in Rwanda's transition, but first it needs to be able to operate in a climate free from intimidation. This will require legal safeguards, financial viability, and training in professional reporting.

83. All these are struggling to emerge in Rwanda. This was shown last year when a journalist wrote an article charging that money had been diverted in a sale of helicopter parts. He was arrested and jailed without charge. After being released provisionally he wrote another article complaining of corruption in the very jail where he was detained. It is deplorable that a journalist can be jailed for protesting against corruption, but heartening that he had the courage to express his views. Furthermore, the Association of Rwandan Journalists also showed its independence by protesting on his behalf.

84. Large amounts of foreign aid have been spent on Rwanda's media since 1994, but little has permeated to the level of the working press. Most of the 15 titles have a small readership. As of August, none had its own printing press.

85. There is still much that donors can do short of outright subsidies. For example, the United Kingdom has paid for the construction of newspaper kiosks around the country and funded a vehicle for the Association of Rwandan Journalists. Canada has supported LIPRODHOR's newspaper Verdict, which offers professional writers the chance to cover genocide trials and has made trials more transparent. Sweden has provided funds for the Association to open a press café, and the United States has given computers. UNESCO has organized training sessions for journalists. These small initiatives nurture civil society and a free press.

86. The Special Representative would also like to refer to the new press law currently under discussion in the National Assembly. One provision requires that every media title be owned by a commercial enterprise. Considering that none of the 15 titles is currently commercial, this provision could bar small publications being issued by civic associations. This would be most regrettable and could lead to a monopoly of ownership.

The Batwa

87. One relative newcomer to Rwandan civil society deserves mention. Historically, the Batwa have always been Rwanda's third ethnic group. With the removal of ethnic labels from ID cards, they are no longer officially designated an "ethnic minority". Nevertheless, they remain a clearly identifiable part of Rwandan society which needs to be integrated in order to reduce its vulnerability to isolation, incomprehension, poverty or discrimination. Such a deliberate step by the Government will certainly put an end to the Batwa's sense of insecurity and marginalization.

88. There are some promising signs. Prior to 1994, there were only two Batwa organizations. Today there are seven. This drive to organize and take control of their own lives is the essence of civil society and should be supported. The Government is commended for making this possible. However, the seven groups need, first, to cooperate, coordinate, and seek registration as NGOs - singly or together. Second, they need to be integrated into the human rights debate and introduced to donors in Kigali. (At present, most of their support comes from the minority rights and indigenous networks in Europe.) Hopefully, this will lead to projects. For example, they need technical advice on how to improve the quality and marketing of Batwa pottery, which is a mainstay of many Batwa families.

89. This process need not be presented as a demand for the rights of the Batwa minority - an inappropriate approach in the Rwandan context - but rather as the realization of economic and social rights of an underprivileged group.

NGO registration

90. After five years, the Government has approved a draft law for the registration of non-governmental organizations. This is long overdue in that many NGOs have been operating

in a legal and financial limbo. On the other hand, one human rights group expressed concern that the law could threaten their independence and impose a heavy administrative burden by requiring that all NGO representatives be approved by the Ministry of Justice, and that any modification of statute be submitted to the Ministry.

91. The Special Representative would also be concerned at such a requirement. He would point out that independence makes civil society effective, and so increases its value as a partner to Government.

VIII. THE CRISIS IN RWANDA'S PRISONS

92. This year's report devotes considerable attention to detention and the rebuilding of Rwanda's judiciary. It is hard to comprehend that around 120,000 detainees are still crowded into jails five years into the transition - many without being charged. The Special Representative sees this as a critical test of the international community's ability to respond to genocide with the rule of law.

93. The Special Representative understands the dilemma that faces the Government. It has been explained many times. Put simply, the perpetrators of genocide must be punished - but Rwanda's judiciary was virtually destroyed in the genocide. In the meantime, suspects must remain in prison, if only for their own safety. This impasse has blocked a solution for five years.

94. The Special Representative is pleased to report that he sees the possibility of a breakthrough in this intractable and dangerous problem. There is, first, a new note of realism in his discussions. Government ministers agree that prisons are imposing an impossible economic burden - taking 4 per cent of the national budget annually. They understand the damage that is being done to Rwanda's commitment to human rights, and to national reconciliation.

95. The Government has therefore undertaken a series of bold moves which strongly merit international support. The Ministry of the Interior acquired the direction of prisons under a government reorganization last year, and will shortly take over the running of the communal detention centres (cachots). A new law on prisons has been drafted, and new prison regulations will be published when the law is adopted this year. The Ministry of the Interior is taking over the judicial police inspectors, who carry out the investigations, and incorporating them into an expanded criminal investigation division. The Minister himself has made a personal commitment to improving prison conditions. All this represents progress. It is particularly gratifying that the Government is prepared to allow regular inspection of prisons. This will increase international confidence.

96. The Special Representative would also like to commend the Government for restraint in carrying out executions. The last executions occurred in April 1998, and he has not been informed of plans for further executions. This will reassure Rwanda's friends. At the same time, of course, the number of those condemned to death continues to rise. It stood at 348 at the end of 1999. Eventually this will have to be resolved.

another who strives to do better. They should be rewarded by the international community. There can be no development in Rwanda's communes as long as anarchy reigns in the communal cachots.

107. **Prison administration.** The Special Representative is distressed that conditions in Rwanda's prisons continue to violate the basic norms. At the same time, he applauds the efforts of the Ministry of the Interior to improve prison administration and put an end to corruption. Last year, 9 of the country's 19 prison directors were dismissed and jailed on charges of corruption. Several are suspected of using prison labour to build extravagant houses.

108. During a visit to Kigali Central Prison, the Special Representative was told that the supply of medicine was two weeks behind schedule - at a time when malaria was widespread and a mysterious outbreak of "trembling" had broken out among female detainees. Part of the problem was bureaucracy: the prison administration has to send a written request to the Ministry of the Interior, which then passes it on to the ICRC. In other words, even prison secretaries have a critical role to play in improving prison conditions.

109. **Training prison guards.** It is the guards who come into contact with prisoners on a daily basis that are most in need of training. Once again, this is linked to the wider problems facing the judiciary. Many prisons are very short-staffed. (The prison of Rilima, in the prefecture of Kigali rural, had 17 guards for a prison population of 12,000 last August.) Most guards are so poorly paid that they are virtually forced to rob detainees.

110. Penal Reform International (PRI) trained 400 prison guards last year, but months passed before they could be deployed - either because of slowness in vetting their backgrounds or because they lack training in the use of firearms and crowd control.

111. The Ministry of the Interior proposes to establish a training centre for prison guards within an existing training facility for police at Gishari, in Kibungo prefecture. The Special Representative strongly endorses this proposal and hopes that it will attract funding. He would also support the Ministry's plans to professionalize and restructure the civilian police in Rwanda. The relevant law was passed by parliament in October.

112. **Community work for prisoners.** During a visit to Kigali Central Prison, the Special Representative was able to see the benefits that come from giving prisoners the chance to work. The project is run by PRI, which operates in eight prisons. At Kigali Central, 1,000 prisoners are permitted to work in fields and in a carpentry workshop where they make furniture. Seventy per cent of the profits go to the Ministry and the rest are reinvested in the jail. The prisoners themselves receive a monthly stipend with which to purchase food.

113. Initially, Rwandans resented the fact that people suspected of having committed genocide ("génocidaires") were receiving payment. But PRI has made it clear that the alternative is slave labour, which would of course be unacceptable. The PRI model could also provide an important foundation for gacaca, which will make extensive use of community service, but first it has to be extended to all jails. In Kigali Central, only a sixth of the prisoners are permitted outside. Regrettably, none of the 670 women prisoners has this opportunity, a clear example of

discrimination. The Special Representative was gratified to be assured, during the latest mission of his team to Rwanda in January, that this will be rectified and equal opportunity will be afforded to male and female prisoners.

114. **Prison discipline.** The authorities face a major dilemma in enforcing discipline in prisons. On the one hand, security inside the prisons has to be left to the prisoners themselves: given the numbers, there is no alternative. On the other hand, this opens the way to abuse and mafia-like activities within the prison walls. Most prisons even have their own cachots, where "offenders" are detained.

115. As part of his personal crusade to improve prison conditions, the Minister of the Interior has let it be known that fighting, homosexuality, and the use of drugs will not be tolerated. During a visit to one prison he ordered prisoners caned for homosexual acts, and arrested one government supplier of food who had delivered rotten beans.

116. The Special Representative understands the motivation, but must also caution that any disciplinary measures must be in accordance with the law. The Minister himself acknowledged that the issue of sexual preference is a new one for Rwanda and needs careful review; corporal punishment might not be appropriate. On the issue of health, the spread of HIV/AIDS within prisons must of course be contained, and the Special Representative applauds the Ministry's plan to set up dedicated units within each prison. He also points out, however, that the risk of AIDS/HIV infection is greatly increased by overcrowding, where male and female prisoners are not separated, and where minors are detained with adults. Improving conditions is the best form of prevention.

117. **The detention of children.** The involvement of children was one of the most shocking aspects of the genocide. Some killers were as young as 10. Most were influenced by adults, but some acted alone and even directed other killers. As a result, there is strong pressure to treat them like normal criminals. At the end of 1999, 4,454 children were in detention in prisons and cachots, subjected to the same vagaries as adult detainees. According to UNICEF, only 30 per cent had completed files. Many were incarcerated with adults - in clear violation of the Convention on the Rights of the Child which Rwanda ratified in 1991. (Only 6 of the 13 prisons have separate wings for minors.) Perhaps most alarming, over 450 children have been formally cleared of involvement in the genocide but remain in detention. Only 196 children were released last year.

118. Most of the detained children were over 14 at the time of the genocide, but several hundred were younger. Under Rwandan and international law, the legal age of responsibility is 14, which means that all those falling in the latter category are illegally detained. At the same time, there is opposition to their unconditional release. In an effort to break the deadlock, UNICEF has been supporting a centre at Gitagata (in the prefecture of Kigali rural), where suspected génocidaires who were under 14 at the time of the genocide are taken and rehabilitated before returning to their families. Since it opened in 1995, 297 children have passed through the Gitagata centre.

119. The Special Representative's delegation visited Gitagata in January, and was impressed by the facilities. While far from luxurious, they allow for exercise, education and medical treatment - none of which is available in prison. Only four children have tried to escape in the four years that the centre has been open.

120. The main goal of rehabilitation, according to officials, is to make the children understand "the difference between good and evil". It is left to instructors, who work with groups of about 20, to decide when this point is reached. Initially, it took over two years, today it is less than a year. Once a child is deemed fit to return home, the local branch of ASOFERWA prepares the ground for the release with the community. ASOFERWA has managed to follow up 100 of the 297 cases, and found no instance of reprisals.

121. The Special Representative fully supports the Gitagata initiative. Indeed, he would urge the Government to make more use of the centre and release more children from prison. Gitagata now holds about 170, but could easily take 400 - which is approximately the number that the Ministry of the Interior would like to move from prisons. This should be expedited as a matter of urgency. It may mean providing Gitagata with more dormitories, mattresses, beds, food rations and staff.

122. At the same time, Gitagata can only be one component in a concerted push to resolve the problem of detained children. The Government would earn the gratitude of the international community by treating detained minors as a priority, by separating them in prison, by completing their files, by bringing forward their trials, and by releasing those without a case. UNICEF has pleaded for months for this to happen - but to no avail.

123. **Releases.** The best way to ease overcrowding is by releases. The question is how to accelerate releases in a manner that is compatible with justice and does not provoke protests from local people. This is one of the goals of the proposed traditional justice (gacaca).

124. There was fierce resistance when the Government announced, on 6 October 1998, that it planned to release 10,000 prisoners who had no judicial files. Survivors protested that this was a denial of justice and there were reports of acts of violence against individuals. Some even sought refuge back in the prison. Even when they were not directly targeted, those released found it hard to reintegrate. One analysis by LIPRODHOR found that some were denied identity cards and the right to work. This was particularly difficult for those who had been disabled in prison. As a result, the Government turned to a more low-key approach. The local authorities try to prepare opinion in the village before an individual is released. A recent LIPRADHOR report suggests that this has resulted in a steady decline in reprisals, which should encourage more releases.

125. The Special Representative's own inquiries suggest that the release of humanitarian cases, and those found to be innocent, can promote reconciliation. Last August, his mission visited the commune of Nyabisindu in Butare, where 40 prisoners had been freed from the cachot, including 20 who had no file. New charges were levelled against 10, who were rearrested; the other 30 were given a document confirming their innocence, and this was used by local leaders to inform local families. Public opinion has been further softened by the fact that prisoners are building houses for widows and orphans, as explained above.

126. The Special Representative urges the authorities, and Rwanda's international partners, to initiate more projects like Nyabisindu, in as many of Rwanda's 154 communes as possible. He also appeals for the release on humanitarian grounds of detainees over 70, the chronically ill, small children, and mothers who have given birth in jail.

127. **Donor cohesion.** It will require a concerted effort by the Rwandan authorities under the direction of the Ministries of the Interior and Justice, with the participation of civil society and the Rwandan National Human Rights Commission, to address the crisis in Rwanda's prisons. Somehow, prisons must be brought into the mainstream of public debate. But this must be matched by a more coherent approach from the international community.

128. The Special Representative wishes to pay tribute to organizations working on the frontline on this crucial issue. By its work in prisons, the International Committee of the Red Cross is implementing the spirit of the Geneva Conventions. Penal Reform International is doing difficult work in distressing conditions. Backing them up are a small number of donor Governments that are deeply committed to the improvement of justice. In some respects, this is a model intervention by the international community.

129. However, it can be improved. Simply put, donors are more committed to the reform of justice than to the crisis of detention. The Special Representative was concerned to hear that PRI's valuable projects were jeopardized when a grant from the European Union took almost nine months to arrive. This meant that the prisoners could not take advantage of the harvest and buy food.

130. There seems to be little donor interest in the Government's plans to train prison guards as part of a broad policy to upgrade and professionalize the civilian police. The Special Representative commends the Governments of Uganda and the United Republic of Tanzania for training Rwandan police officers, and the Government of the United Kingdom for providing human rights training to police. Tanzania, Kenya and Malawi have also offered to train prison guards, but the numbers involved are small and they need support.

131. The reticence of donors is most marked when it comes to working with the Ministry of the Interior, and to the construction of new prisons. There is an understandable fear that new prisons would simply invite new prisoners. In one example, the ICRC agreed to support the construction of a new prison at Nsinda on condition that it held no more than 5,000. Last August it held 12,500.

132. This makes donors wary. But they cannot ignore the fact that the Ministry is now a major player in human rights, and that more prison space will be needed regardless of gacaca. Even with mass releases, optimists predict a prison population of at least 60,000 by the year 2005, which, in per capita terms, would still be one of the highest in the world. Prisons - and detention - must be part of a comprehensive solution.

133. Donors seem willing to support the reform of justice, while remaining reluctant to put money into a system of detention that clearly does not meet minimal standards. The Special Representative urges donors to reconsider their position in order to break this vicious circle which perpetuates unacceptable conditions in prisons. More serious, it virtually guarantees that

detention will undermine reconciliation and complicate Rwanda's recovery. It is time to turn Rwanda's prisons from a symbol of abuse and revenge into an instrument of law and order.

IX. THE JUSTICE SYSTEM

134. The overcrowding in Rwanda's prisons is due primarily to the slowness of the justice system in processing cases and completing trials. But the justice system itself is overwhelmed by the number of people in prison. Here is another vicious circle.

135. The proposal to establish a new system of community justice (gacaca), which is discussed below, will ease some of the pressure. This is because the gacaca system will process three of the four categories of genocide suspects established by the 1996 Basic Law on genocide leaving only the first category to be prosecuted under conventional justice. (These are persons who planned or incited genocide, committed acts of premeditated murder or acts of sexual torture.) This would still leave the conventional justice system with a huge workload. There is no precise figure, but the Special Representative heard estimates ranging from 5,000 to 25,000. Coupled with common law cases, it is clear that Rwanda's judiciary will be under pressure for years to come.

136. **The genocide trials.** By 30 November 1999, 2,406 persons had been tried before a special genocide court, out of the 121,500 in detention. Of these, 348 (14.4 per cent) were condemned to death, 30.3 per cent to life imprisonment, 34 per cent to jail terms of between 20 years and one year, and 19 per cent acquitted.

137. There is much to applaud in this process. Trials are closely monitored and found to conform with international standards. The Danish Centre for Human Rights has trained Rwandan defenders, and defence lawyers are provided by Avocats sans Frontières. This has pushed up the rate of acquittal. The rate of death sentences continues to decline.

138. But the rate of processing génocidaires is still lagging far behind the numbers detained. Under the Rwandan Penal Code, a suspect is supposed to be served with a writ within 48 hours of arrest and appear before a judge within five days. These safeguards were suspended for genocide suspects in 1996. The suspension was extended in 1998, and again extended for another 18 months on 31 December last year. This was regrettable, but there was no real alternative. By September, an estimated 40,000 prisoners were still without files, let alone having appeared before a judge. The authorities made a big push to meet the end-of-year deadline, but the hearings became so curtailed as to become a formality, instead of a legal safeguard. Faced with a choice between a mass release that would have provoked a backlash and been a meaningless exercise, the authorities decided to extend the emergency regulations.

139. It is crucial for Rwanda's reputation that these emergency regulations do not become permanent. Indeed, the sooner they can be lifted, the better for the rule of law in Rwanda. The Special Representative applauds the National Human Rights Commission for pressing this issue with the National Assembly as part of its monitoring of the judicial process.

140. **Confessions.** Another casualty of the paralysis in the justice system is the very small number of confessions that have resulted in a lessening of sentence or even acquittal. This is a

warning for gacaca, which will rely heavily on confessions. The 1996 law on prosecutions for genocide provides a range of possibilities for those who confess. If implemented, these provisions would undoubtedly help to reduce overcrowding in the prisons.

141. According to the Minister of Justice, over 15,000 have confessed. The Special Representative was himself told by prisoners in the Kigali prison that 964 inmates (out of 8,549) were prepared to confess. Yet, according to the Citizen's Network, which is helping the Government to process confessions, only 65 confessions had been acted upon by March 1999, so slow and cumbersome is the process of hearing and review. (Updated figures have not yet been received from the individual prosecutor's offices - another indication of their workload.) The reason for this is that to qualify for leniency, a prisoner has to name accomplices, each of whom has to be investigated. As a result, this supposed "fast track" may even add to the workload.

142. The Ministry of Justice and the prosecutors are stretched to the full by preparations for gacaca, but the Special Representative is concerned that no government body has responded to an invitation by Citizen's Network to discuss the failure of the confession process. Clearly, confessions have a role in a comprehensive solution.

143. **Blockages in the justice system.** The Special Representative would like to commend international NGOs like Citizen's Network, and donor Governments that are helping to rebuild Rwanda's justice system. Danish Legal Aid is furnishing prosecutors' offices (parquets) with essential support (including transport), training judges, and working with judicial police inspectors. Avocats sans Frontières is training lawyers to take on the deeply unpopular cases of suspected génocidaires and also representing the victims. Thanks to such efforts, the number of magistrates has risen to 104 and the country has 55 lawyers and 87 judicial defenders who can argue cases in court. But there remain tremendous obstacles at all levels, from the Supreme Court down to the judicial police inspectors, who carry out investigations and prepare files. The Special Representative's mission met one judicial police inspector in Nyabisindu who had no means of transport - not even a bicycle - with which to prepare 152 files. Witnesses have to come to him.

144. Once again, it is important that donors see the challenge in its entirety, and avoid focusing simply on aspects like the rights of the defence, even if this may be important in their own aid guidelines. Rwanda's Chief Prosecutor is drawing up an inventory of the needs of the parquets. The Special Representative urges donors to assist.

145. **Military justice.** Military justice also tends to attract little attention from traditional aid donors. Yet it, too, must be part of any comprehensive solution. The Special Representative has met several times with the Chief Military Prosecutor, and is gratified by the goals of this institution's mission statement: the promotion of justice; the defence and promotion of human rights; the eradication of impunity.

146. Last year the Prosecutor brought 506 cases before military courts; 345 resulted in prison terms. Most concerned common crimes, but the Prosecutor assured the Special Representative's mission that he remains vigilant to the protection of human rights. In general, he said, discipline was good in the Rwandan armed forces. He noted that 5,000 ex-FAR had been integrated into the army, without any problem.

147. The Prosecutor has held two seminars for officers on the promotion of law and human rights. He would like to hold more, but is constrained by a lack of funds. His office has also published a monthly bulletin with assistance from the United Kingdom Government. These important initiatives help to ensure the accountability of the armed forces, and also keep Rwandans informed. They deserve the support of the international community, and could provide another opportunity for the National Human Rights Commission.

X. GACACA

148. Efforts to improve justice in Rwanda will enter a decisive new phase in the next few months, with the introduction of a radical new system of community justice for genocide suspects known as gacaca.

149. Gacaca is traditional justice, and it has long been mentioned as a component in any solution to the problems of detention, reconciliation and impunity. But it is only in the last few months that it has gone from being an idea to a government policy. The fourth draft of the gacaca law is now before parliament. Trials could start as early as June.

150. The sense of urgency comes partly from the determination of the Government - particularly the Minister of Justice, who has spearheaded the campaign throughout the country - and partly from the fact that there appears to be no alternative. Even the survivors of genocide are coming around. They have reservations about any proposal that could free guilty genocide perpetrators. But it has become increasingly likely that the only alternative would be an amnesty - which would be unacceptable at present.

151. The Special Representative applauds the boldness of the gacaca proposal. Time and time again he was told that "justice as it is practised in the West is not working. We need to find an alternative". At the same time, he would point out - as many others have done - that the gacaca plan is a major gamble. If successful, it could break the deadlock. Equally, it could create an entirely new set of problems. It is up to the Government, and its international partners, to minimize the risk.

152. Gacaca justice will be administered at three different levels of society, starting in the communities themselves at the level of cells. Here, 180,000 judges will be elected by cell assemblies comprising everyone over the age of 18. As well as passing judgement, they will also have the important task of allocating categories to prisoners. Thirty thousand gacaca judges will be chosen at the level of the sectors, and 2,000 at the level of the communes.

153. The law on gacaca will cover the remaining three categories of genocide suspects not covered by conventional justice: persons who committed murder at the order of others, those who caused physical injury and rape acting on orders, and those who destroyed property. The total number affected could amount to 100,000, with as many as 80 per cent in the first category.

154. Trials will take place in public before the entire community. Drawing on the recollections of the accused, the complainant(s), and the villagers, the judges will compile a list

of those who died in the genocide, and of those responsible. The accused will then be judged and sentenced. The innocent will be released, the guilty punished depending on the severity of their crimes.

155. In deciding penalties, the judges will take into account time already served. Those who confess will benefit from a reduced sentence. Convicts will also be allowed to perform community service as part of the sentence. Those convicted of crimes against property will be expected to pay restitution for the damage they caused. If - as is likely - they lack the means, they too will perform community service. The entire gacaca process will come under a newly-created chamber of the Supreme Court.

156. The Special Representative wants to underline the unprecedented nature of this experiment. Traditional justice is widely practised in Africa, but never on this scale and for crimes of this magnitude. Precisely because of this, the draft law attempts to ensure due legal process even while it seeks a "Rwandan solution". This - together with the accelerated timetable - has provoked considerable debate and even controversy.

157. In the first place, gacaca means different things to different people. Some see it as a way to ease overcrowding in the jails, some as a tool of reconciliation, some as a way of establishing the facts of genocide, and some as a way of punishing the guilty. This last raises the possibility that gacaca may increase the prison population because it can be safely assumed that many more suspects will be identified by the accused in the course of public trials. The hope must be that any new arrests will be more than offset by the release of those who are found innocent or have already served out their time, as well as the acceleration of the process.

158. The logistical challenge promises to be daunting. Prisoners are already being moved around the country, so as to put them near the community where they will be tried under gacaca. This has resulted in more overcrowding in some jails such as in Gisenyi and a serious deterioration of living conditions - so much so that the ICRC fears a rise in the death rate.

159. It is not clear where prisoners will stay during the gacaca trials. In principle, it will be in the communities as part of the process of reconciliation. But many cachots are already overcrowded. Nor is it clear whether communities will be able to organize community service projects on such a vast scale. Certainly, this is unlikely without support from donors.

160. The most widely voiced concern is that due legal process will be compromised and the rights of the defendants ignored. Under the latest draft all those accused would be able to appea to the next level (cell to sector, sector to commune, commune to prefecture). Those who maintain their innocence will be allowed to mount a defence, but they will not be able to call on a lawyer. Some fear that this could be another case of justice denied - less abusive than long periods of detention without trial, but abusive nonetheless. Other concerns have also been expressed. Will judges at the cell level, with minimal education, be qualified to take these decisions? How can an acceptable trial be ensured - and will the public nature of the event not lead to intimidation? How can women victims be convinced to give evidence in public about *sensitive subjects like rape*?

161. Weighing these questions, some international human rights groups and even government agencies feel that gacaca could be inconsistent with international standards, and that a way must be found to ensure that a defendant does not stand alone before his accusers. Supporters of gacaca respond that it is not an adversarial system. Rather, it is a process of community decision-making.

162. The Special Representative wishes to state clearly that he supports the principle of gacaca, and applauds the Government's determination to engage ordinary Rwandans in this bold endeavour. Acceptance is growing in the most unlikely of places. During a visit to Kigali jail the Special Representative found that the entire prison population was meeting every day to prepare for gacaca. Overseen by a committee of 12 prisoners selected by the authorities, the prison population was divided according to the cells in which they had lived during the massacres of 1994. During the morning one cell had drawn up a list of 113 deceased victims and of 20 killers, 17 of whom were already in prison, while 3 were still at liberty.

163. The fact is that gacaca will happen, with or without international support. Rwandans bring an impressive determination to tasks on which they set their minds - as witnessed by the feat of electing nearly 160,000 local committee members in the March elections. Already there exists a system of community service (known as umuganda) which every villager is expected to perform.

164. The question facing Rwanda's international partners is relatively simple. Do they grasp the nettle and participate, on the grounds that anything is preferable to the abuse in prisons, or do they hold firm to established legal principles and stay aloof, thus increasing the likelihood that gacaca will fail?

165. It is not the Special Representative's task to take this difficult decision. But he would argue strongly that much can and should be done to minimize the risks. Many of the logistical problems will have to be worked out along the way, and it would greatly reassure donors if the Rwandan authorities were to launch gacaca in a limited number of locations. Kibungo was suggested as one prefecture where the cachots are largely empty. Monitoring by Rwandan human rights groups is also critically important. Public discussion is also the best way of ensuring that gacaca turns into an instrument of reconciliation, rather than revenge.

166. Some donors are already committed. The United States has committed $2.7 million to an awareness campaign, which will include producing a newsletter on the trials for magistrates. But most of the other donors appear to be desperately seeking guidance. The Special Representative would suggest that at the very minimum, they create a liaison unit - perhaps placed within an international NGO - that can act as intermediary with the authorities and develop projects on community service, on which there exists considerable international expertise.

167. There is much else that could be done. Women's groups could draw on their experience from the Balkans, and ensure that gacaca testimony is taken from victims of rape in a sensitive manner. The International Criminal Tribunal could offer its expertise on witness protection and other legal issues - helping to offset the widespread impression that it is only interested in Rwanda as a source of information for its own Arusha process.

168. Such measures may not satisfy those who insist on clear-cut guarantees before gacaca begins, but they might help to alleviate fears and provide some cushion against abuse. The Special Representative is concerned that the doubts of donors will become self-fulfilling. He is also concerned that international support for gacaca be coordinated, instead of piecemeal, and discussed in the context of justice as a whole. Such a discussion should start at the level of capitals. As with the crisis in prisons, it requires political will and political direction.

XI. THE INTERNATIONAL CRIMINAL TRIBUNAL

169. The International Criminal Tribunal for Rwanda, based in Arusha, United Republic of Tanzania, has administered a parallel system of justice since its establishment in 1994. As of 31 December 1999, 48 individuals had been indicted. Thirty-eight were in custody, including one detained in Texas, United States of America. Six have been tried and sentenced. Ten were accused, but are at large.

170. As of writing, relations between the Government of Rwanda and the Tribunal have been severely strained by the November decision of the Tribunal's Appeals Chamber in Arusha to dismiss the indictment against Jean-Bosco Barayagwiza, a founding member of the notorious Radio Milles Collines, which incited Rwandans to genocide in 1994. The Appeals Chamber dismissed the indictment with prejudice to the prosecutor, which effectively barred any future criminal proceedings by the Tribunal. The prosecution asked for a stay of execution, and submitted new evidence. The case was due to be taken up again by the Appeals Chamber on 15 February.

171. The outcome could affect not just the credibility of the Tribunal but its future existence. Rwandans have always found the Tribunal's results hard to justify when set against its resources, and the decision to release Mr. Barayagwiza, apparently on a technicality, provoked a wave of anger. The Government announced that it was suspending cooperation. This paralysed the Tribunal's investigations, since almost all of its evidence and witnesses come from Rwanda. Survivors' groups protested angrily.

172. The Special Representative understands the anger, but he would also recall that the Tribunal's credibility depends on due process and the independence of its appeals process. One expert suggested that in its Barayagwiza decision, the Appeals Chamber was trying to put a stop to the practice of arresting suspects before there is sufficient evidence to make the case. While this may be understandable, given the ease with which suspects move from country to country, it can also lead to unacceptable delays. Mr. Barayagwiza was detained in Cameroon on 27 March 1996 but transferred to Arusha 20 months later, on 19 November 1997. He was only told of the charge against him on his arrival in Arusha. Ninety-six days then passed before he appeared before a judge - six days longer than permitted under the Tribunal's own rules. This sequence certainly makes it harder to argue that Rwanda should speed up its legal process.

173. The question is whether the Barayagwiza decision will be reversed by the Appeals Chamber. If it stands, and Mr. Barayagwiza is acquitted or returned to Cameroon, many Rwandans predict a complete break with the Tribunal.

174. The gravity of this crisis has overshadowed the Tribunal's achievements. It has indicted or arrested most members of the interim Government that planned the genocide in 1994. Investigators have established that the 1994 genocide was a carefully planned conspiracy that was prepared in advance and discussed with all the country's prefects at a meeting in Kigali in April 1994. It is notable that the importation of machetes and other weapons of mass murder rose dramatically in 1994. During a meeting in August, the Tribunal's Deputy Prosecutor said that the Tribunal had prepared an unofficial list of some 500 persons - 200 of whom are known to be in Europe.

175. Even if the crisis over the Barayagwiza decision is resolved, the international community will need to reassure the Rwandans that the Tribunal is as committed to justice and to the victims of genocide as it is to the rights of accused génocidaires. This will require a major effort, not half-hearted gestures.

176. The Special Representative's delegation was told in January that while the Deputy Prosecutor is liked and respected in Kigali (where he is based) his office offers very little practical assistance to Rwanda. It was suggested that the Tribunal open some of its own files to Rwandans and make some of its formidable legal expertise available to help resolve Rwanda's judicial impasse. It would also help if the assets of convicted génocidaires could be blocked.

177. Crimes of sexual violence might be one possible area of cooperation. As noted earlier, the Rwandan courts will soon receive very large numbers of such cases. The Tribunal has secured several precedent-setting convictions for sexual violence and even set up a special unit in Kigali. Extending cooperation to the Rwandans could help to restore the Tribunal's image and advance the cause of justice.

178. As for Governments, cooperating with the Tribunal is the easiest way to make amends for not having prevented genocide in 1994. The Special Representative has been made aware of the reticence of certain Governments, in various parts of the world, to hand suspected génocidaires over to the International Criminal Tribunal. He strongly urges these Governments to enact legislation to cooperate with the Tribunal and investigate suspects on their own territory.

179. Looking further ahead, a place will have to be found where those convicted in Arusha can serve out their prison terms. The Tribunal only provides temporary detention for those on trial. The Security Council has asked Governments to assist, and the Special Representative applauds Mali, Benin and Madagascar for responding positively. Six génocidaires have now been sentenced. Their speedy removal from Arusha would be a reassuring sign of African solidarity in the face of genocide.

XII. RECONCILIATION

180. After five years of refusing to talk of reconciliation until justice is seen to be done, Rwandans now accept that reconciliation must be a national goal in its own right. This is a measure of the country's new confidence, and it deserves recognition from the international community.

181. To help with this daunting task, the Government has established a new National Unity and Reconciliation Commission (NURC). The NURC has quickly made its mark, under its energetic Executive Secretary. As she explained in a wide-ranging discussion with the Specia Representative, the Commission's first aim is to expunge the divisiveness of ethnicity from Rwandan life. With this in mind, the NURC has initiated a nationwide process of consultatio

182. This starts with listening. As the Executive Secretary herself acknowledged, reconciliation cannot be imposed. Indeed, Rwandans have long been working out their own solutions. "Old caseload" refugees who fled in 1959 and returned in 1994 - mostly Tutsis - ha found accommodation with "new caseload" refugees, who fled in 1994 and returned in 1996 a who are mostly Hutu. Returning refugees who found their homes occupied, sometimes by powerful local figures, often consented to live in the same house with these occupants. Sometimes victims had no other option but to live next to suspected killers.

183. This day-to-day drama has produced tensions, but also triumphs. One remarkable example encountered by the Special Representative's mission was the women's organization COCOF (Women's Consultative Committee) in the prefecture of Gitarama, referred to above. COCOF comprises 95 separate associations. Sixty per cent of its 2,055 members are widows genocide victims. The rest are married to suspected killers, who are now in prison. Yet both groups till the fields together, prepare food for the wives to take to the husbands in jail, and st together for election during the March local elections. Reconciliation of this kind is a lesson f the whole world. It belies the image of Rwanda as a country riven by ethnic hatred.

184. Groups like COCOF show that practical solutions of reconciliation should also be entrusted to communities. As an example, the Executive Secretary noted that the number of orphanages in Rwanda had been reduced by two thirds, as orphans from the genocide found foster homes. Financial incentives are given to Hutu families who foster a Tutsi orphan, and vice versa.

185. As with the NHRC, the NURC is focusing on establishing a strong institutional foundation. This requires resources and staff. The NURC has a budget from the Government but at the time of writing it had received limited financial support from donors. The Special Representative therefore also appeals to members of the international community and partners Rwanda to extend their full support, both financial and technical, to the NURC. He applauds t initiative of the Government of Germany to make a technical adviser available to the NURC. This will certainly make it easier to develop projects.

XIII. HELPING SURVIVORS

186. There is a strong moral and practical argument for helping the survivors of genocide in Rwanda. Morally, they should be among the first beneficiaries of any international assistance. Politically, their support and cooperation are essential for the success of crucial measures like gacaca. If they can be convinced, then reconciliation will work.

187. The Special Representative is distressed to report that many survivors feel abandoned b the international community. During his visit last August, he met with the President of IBUK the influential lobbying organization of survivors, and also with the Minister of Social Affairs,

whose Ministry supports 300,000 families of genocide victims. In 1998, the Government voted to make 5 per cent of the national budget available to provide support and assistance to genocide survivors. This produced about $12 million.

188. In spite of this, there is a mood of disillusionment among survivors. The best therapy for the wounds of genocide is that justice should be seen to be done. They are angered by the Barayagwiza decision in Arusha in November, and by the perception that convicted génocidaires live better at the Tribunal than many of their victims in Rwanda. They fear that in the rush to complete trials, their needs will not be sufficiently addressed during the gacaca. They also feel sidelined by Rwanda's own genocide trials. Increasingly, law courts are finding on behalf of civil plaintiffs and levying large fines on those responsible - including the Rwandan State in cases involving former State officials. But neither the State nor individuals have the funds to pay. Although an effort is under way to collect damages from two convicted génocidaires, no case has produced reparations. As a result, such verdicts increasingly lack credibility and further deepen the disillusionment of survivors.

189. Donors in Kigali are increasingly inclined to consider the needs of survivors. This, combined with a worldwide move to recognize victims' rights, could produce some concrete support. The Special Representative would also recall recommendation 13 of the Independent Inquiry, which calls for United Nations support for survivors.

190. Some feel that payments are not the answer and indeed could even be demeaning. Certainly, as the President of IBUKA made clear, survivors are not just interested in money. They want the tone of the debate altered to specifically address their human rights. But this also needs to translate into projects. In one example, survivors are taking the lead in making sure that the genocide is remembered. Unlike South Africa and other countries which have suffered from mass violence, there has been no Truth and Reconciliation in Rwanda. With help from the Government of the Netherlands, IBUKA has compiled the names of 59,000 victims in the prefecture of Kibuye. It is seeking funds to do the same in other prefectures.

191. Among other donors providing practical assistance to survivors is the United States, which has funded scholarships for children to attend school. The Netherlands is also interested: eventually the number of beneficiaries could rise to 6,000.

192. The Special Representative would suggest that this growing interest extend towards legal reparation. The gacaca law foresees the establishment of such a fund, and even the statute of the International Criminal Tribunal provides for an indemnization fund for victims (even though it does not provide restitution for civil claims). The Special Representative would also suggest that a mechanism be set up to focus the efforts of donors on behalf of survivors, and that survivors be invited to thematic meetings on justice.

193. In this context, the Special Representative particularly commends the work of Avocats sans Frontières, whose lawyers not only defend accused génocidaires, but also plead the cases of victims. He also supports the kind of initiative described earlier, in which prisoners are released to perform community service. These acts of penance promote reconciliation as well as the physical well-being of the prisoners. One project in Gitarama, to be funded by the German aid service GTZ, will allow prisoners to work the land belonging to the widows of their victims.

XIV. ECONOMIC AND SOCIAL RIGHTS

Children

194. Rwanda's children suffered terribly under the genocide, and those who survived still bea the scars. But it is also time to shift the focus - to start looking beyond genocide and understanc the wider needs of Rwanda's children, many of which can be viewed in terms of protection and child rights.

195. Children need protection from HIV/AIDS. According to recent studies, between 10 and 11 per cent of the Rwandan population may be infected. This affects the rights of unborn children who risk being infected by their mothers. It also creates AIDS orphans, and leaves children as heads of households. According to UNICEF, AIDS orphans are often expelled from the house once their parents die, and the property taken over by close relatives. UNICEF would like to see a law recognizing a child's right to inherit property. UNICEF has also helped to draft a new law on foster care that provides protection and equal treatment for foster children, as well as opening the way to their eventual adoption.

196. In one pilot project, UNICEF has purchased the drug AZT and administered it to infecte pregnant women. The initial results suggest that the rate of transmission can be reduced by as much as 40 per cent. The project also shows that AZT need not just be a "rich man's drug" beyond the reach of poor people.

197. Violence against girls is one area of child protection that is at the forefront of public debate in Rwanda. Sexual violence against children is widespread, particularly in isolated communes, and in 1998 UNICEF helped 50 children testify before the National Assembly. The publicity shocked Rwandans, engaged women MPs, and even provoked public demonstrations. At the request of the Cabinet, the Assembly drafted a law which could be passed this year. This is a good illustration of the vitality of civil society in Rwanda, the capacity to lobby and the legislature's receptiveness to public opinion.

198. Street and working children are a familiar sight in Kigali. UNICEF studies suggest that as many as 80 per cent of them are not orphans, but have been sent out by their impoverished parents to beg. In theory, this could make their rehabilitation easier. But any work on behalf of street children has to battle with a highly negative public attitude. There is little concern for the violence and abuse suffered by the street children, and few protests when they are periodically rounded up by the police.

199. UNICEF has managed to reach 778 street children by working with NGOs. But each child requires individual attention and patience. UNICEF plans to advocate for a National Task Force on Street Children. The Special Representative fully supports this.

200. Education is another fundamental right which requires resources, and political will, if it i to be realized. The Government is committed to providing primary education for all Rwandan children by the year 2010, and with an enrolment rate of 75 per cent would seem to be well on the way. But there is a huge drop-out rate, especially for girls. Only one fifth complete the six grades of primary education. This, too must be another component of child protection.

201. These challenges underline the link between needs, protection and rights, and underscore the value of the Convention on the Rights of the Child. Rwanda ratified the Convention in 1991. Its first report, submitted in 1993, was not considered satisfactory by the Committee on the Rights of the Child and its second report is overdue by five years. UNICEF is urging the Government to undertake this important task, but it has slipped from the list of priorities. UNICEF would also like to see vigorous action taken on several new or partially drafted laws, covering foster care and juvenile justice.

202. The natural partner for such a campaign would be the National Programme for Children, in the Ministry of Social Affairs. But the Programme is severely under-resourced and the campaign needs new allies. The Special Representative's delegation is pleased that the National Human Rights Commission plans to meet with UNICEF and discuss areas of cooperation.

Villagization

203. Rwanda is in the middle of a great debate on land and settlement. The Special Representative is pleased that his advice has been sought on this important issue.

204. It is both understandable and prudent for the Government to be framing a national policy. Over the last five years, over 70 per cent of all Rwandans have left their homes. UNHCR has helped to build just under 100,000 houses, but according to the Government, 370,000 families still need housing.

205. This is linked to land. Few would dispute that pressure on land was one of the root causes of the war and genocide of 1990-1994, and Rwandan land has been progressively parcelled out through the generations, to the point where it is barely productive. Rwanda's population is expected to grow to 10 million by the year 2005 - putting even greater pressure on land.

206. The Government argues that regrouping Rwandans in village settlements will better facilitate their access to basic services like water, education and medical care, thereby securing basic human rights. It would also make it easier to organize security for the population, particularly in the north-west. The Government's policy of resettlement has emerged directly from the insurgency in the north-west, described earlier, where 600,000 displaced persons have been grouped into villages.

207. Out of these different elements has come the ambitious policy of collective resettlements known as imidugudu, or villagization. The scope and ambition of imidugudu has alarmed many important partners of Rwanda. On 12 July 1999 the EU Council of Ministers urged Rwanda to ensure "careful planning, prior impact studies and pilot projects in order to avoid villagization that brings about human rights violations". This reflects the two chief concerns of donors: first, that villagization may be coercive, and second, that it could further undermine Rwanda's agricultural productivity and food security.

208. There is some evidence on both counts. In December 1998, 41 per cent of those questioned in a government survey of Gisenyi and Ruhengeri said that they wanted to remain in their own homes instead of moving to villages. As for food security, a recent survey by the

Government and United Nations agencies suggests that the distance from fields is contributing to an alarming fall in food production. Only 53 per cent said they were able to farm their own land. The Special Representative is also reminded that compulsory settlement, tried elsewhere in Africa, has rarely succeeded.

209. The Special Representative visited three villages in the hope that first-hand experience would make it easier to frame the debate.

210. Karambi is the first of 19 villages planned for Gisenyi. All but two were selected by local leaders, indicating a considerable degree of local choice and participation. Karambi's 254 shelters/houses are situated on former farmland. The International Rescue Committee (IRC) has provided running water and built latrines for 200 houses, which are 10 minutes from the communal primary school and health centre. The settlers are only 500 metres from their fields, which can be easily reached. Most families are from the sector and so are living close to their original homes. The exceptions are 50 "old caseload" families who returned to Rwanda in 1994 but were forced to leave their temporary homes when the owners returned. There were no signs that their presence in Karambi was resented, and no hint of ethnic tensions.

211. There is no evident coercion in Karambi. Nor was there likely to be, given that the inhabitants were all displaced persons whose previous houses had been destroyed or who were otherwise extremely vulnerable. (No fewer than 136 heads of family were widows.) In the case of Karambi, the problem arises from a lack of resources rather than a lack of choice. All 254 houses are still made of temporary plastic sheeting, and only 5 are being built with brick. The health centre may be close - but it has no beds and almost no medicine. Karambi's settlers are regular visitors to the nutrition centre, because many of their infants are seriously underweight. Agricultural production is certainly feeble, but because settlers lack seeds and fertilizer, and most are single women.

212. The second village visited was Rutara in Kibungo prefecture. It comprises 100 houses built by UNDP on land that was previously occupied by just three houses, two of which were destroyed in the war. The third still stands. The population is mixed: 54 families are old caseload returnees, having no home. A school, market, and health centre are all close, as are fields. The main problem is water: there is a pump in the village but it is only available for settlers who make adobe bricks for latrines. Drinking water has to be purchased in the market, at a price. Coercion is not a problem in this village. All of the settlers opted to live here. In fact, the greatest problem is posed by 50 widows and other vulnerable families who wanted to live in the village for reasons of security, but could not qualify because they were unable to contribute to the construction of a house. These families have erected makeshift houses at the rear of the village which are plainly inadequate. One widow with four children said she had access to her family's land, but production had fallen because her husband was no longer there to farm.

213. The third site visited by the Special Representative's mission, Gihinga (Umutara prefecture), was the least satisfactory of the three. It comprises 150 houses that were constructed in 1997 by a consortium of donors. There is a serious lack of services. The nearest health centre is 5 kilometres away, the market is even further, and water supply is intermittent. There was also evidence of coercion: 20 of the 150 families had been told to destroy their original homes and

move into the new village. Asked whether they had moved voluntarily, settlers told the Special Representative's mission they had had no choice, because laws had to be obeyed.

214. The Special Representative wishes to stress that each village tells its own story. There can be no dispute that, often for security considerations, some coercion has occurred. In this connection, the Special Representative would note that as security improves in Rwanda, security seems increasingly less relevant as a justification for villages. He would also recall that the Guiding Principles on Internal Displacement require that those who are grouped together for purposes of security should be allowed to return home when the emergency is over. The Special Representative was relieved to hear from the Adviser to the President that no Rwandans will be forced into villages against their will. In recent weeks, this has begun to look more and more like formal government policy: ministers have warned that coercion will not be tolerated, and have made this clear at meetings with donors as well.

215. It is also clear that many settlers have happily taken up the offer of a new house and land, and it is the Special Representative's firm belief that if settlers were assured of proper services in advance, they would be clamouring for admission to villages. He therefore very much encourages the Government to establish a joint programme with its partners to improve services in existing villages. With respect to new villages, pilot sites could be established throughout the country, with the location left to the newly elected development councils. Services should be installed before settlers are sought. Findings of technical studies should be fully exploited for the improvement or establishment of such services and projects. Such a policy would certainly lay a firm foundation for a national policy of integrated rural development, which is essential for the well-being of the country.

216. Finally, as with all the issues reviewed in this year's report, the Special Representative is convinced that villagization needs more public discussion. With this in mind, he commends the Rwandan Association for the Defence of Human Rights and Freedoms (ADL) for its decision to study human rights and imidugudu, and the Government of the Netherlands for providing financial support.

XV. CONCLUSIONS AND RECOMMENDATIONS

217. The Special Representative wishes to conclude his report to the Commission this year on a note of optimism, by emphasizing the opportunities that face Rwanda and its partners in the donor community.

Government of Rwanda

218. The Government is to be congratulated for encouraging the development of independent human rights institutions. It is the Special Representative's firm view that this will help to resolve some of the dilemmas identified in this report.

219. The broad themes in this year's report are detention, justice and reconciliation. The Special Representative is convinced that the time is ripe for a major breakthrough on all three fronts, and he commends the efforts by the Ministry of the Interior to improve conditions and administration in prisons.

220. The Special Representative would like to recommend, in particular, the following measures:

(a) The Interior Ministry should provide a budget for food and access to medical facilities in cachots;

(b) The authorities should continue to prepare public opinion for more releases from prison and treat the following categories of persons as a priority: children who are without files or who are confirmed to be innocent; pregnant women; the chronically ill; and persons over 70 years of age;

(c) Every effort should be made to separate male and female prisoners and to separate adults from minors. In fact, as according to international standards, minors should not be imprisoned, they should be moved to the Gitagata reformatory centre (which should, if necessary, be expanded);

(d) The Ministry of the Interior should disseminate the new prison regulations and publish a regular statistical bulletin on prisons. This would require support from donors;

(e) The Ministry of Justice should undertake a review of the failure of the Basic Law to accelerate the trial of persons who confess to genocide;

(f) Concerning villagization (imidugudu), the Special Representative welcomes the assurance that new villages will be constructed with the full participation of voluntary inhabitants. This policy should be applied in the north-west, as the emergency recedes. The Government could select a number of sites to serve as models for an expanded national programme to utilize land and other resources. These could be presented to the donor community for funding;

(g) The Government should forestall international criticism of local defence forces (LDF) by offering a clear explanation of their role, their training, and the chain of command. This could be undertaken in partnership with the National Human Rights Commission;

(h) The Special Representative supports and applauds the boldness of the gacaca proposal. Launching gacaca trials, at first in a limited number of locations, would help to assess the practical difficulties and reassure Rwandans as well as their international partners;

(i) Every effort should be made to enhance the independence and autonomy of NGOs in the new draft legislation being discussed at present;

(j) Concerning information, the Government should consider licensing private radio stations and permitting the operation of private Internet service providers. This will be a positive step in increasing the free circulation of information;

(k) The Government should increase the budget for National Assembly committees, including the committee on human rights.

Rwandan human rights groups

221. The Special Representative commends Rwanda's independent human rights groups, which are contributing to Rwanda's transition to a post-genocide society. He urges them to focus on strengthening their management and monitoring, and to work together wherever possible on sensitive assignments. The Special Representative predicts a boost in membership and enhanced credibility for these groups. He will follow their progress with interest.

222. The Special Representative would also pay tribute to other sectors of civil society, particularly women's associations, labour unions, students, and the seven Batwa organizations. In different ways, all are demanding to be taken seriously and helping to lay the foundation for a democratic society. The increasing interest by religious groups, especially the Catholic Church, to participate in debates on reconciliation is a welcome development.

The National Human Rights Commission (NHRC)

223. The Special Representative is deeply gratified that the Commission is now operational, able to take its place at the forefront of Rwanda's human rights institutions. He particularly supports the Commission's efforts to identify priorities and present a realistic and streamlined workplan that can attract additional funding, while at the same time addressing the Commission's own internal administrative needs.

224. Following the recent public round table of October 1999 and subsequent discussions with international and national partners in Rwanda, many specific recommendations were suggested to the NHRC. The Special Representative is pleased to report that, provided adequate resources are available, the NHRC will spare no efforts to meet the objectives described below. In order to attain these objectives, the NHRC should:

(a) Take advantage of the efforts of independent human rights groups and provide complementarity which makes use of its own unique assets. These include the experience of its individual commissioners, its backing from parliament, and its access to Government;

(b) Carefully choose investigations, so as to contribute to an overall NHRC workplan. They should aim to respond to complaints and/or petitions, and shed light on controversial or sensitive subjects that have a clear human rights dimension. These could include representative cases of disappearances and arbitrary detention; social and economic rights (property and land), sexual violence against children and women; the right to sexual preference; villagization; and local defence forces;

(c) Work closely with the National Unity and Reconciliation Commission (NURC) to ensure complementary projects and avoid duplication;

(d) Work with Rwandan human rights groups to monitor gacaca trials as they pertain to human rights, the rights of defendants and those of survivors;

(e) Promote and disseminate human rights, with special attention to isolated populations; disseminate the report of the Special Representative;

(f) Develop new partnerships - with the Chief Military Prosecutor to develop human rights training for army officers; with the Ministry of the Interior, to disseminate the new prison regulations and develop human rights guidelines for prison discipline; and with the Rwandan telecommunications body Rwandatel, to explore possibilities for liberalizing the Internet and the airwaves.

(g) Work with UNICEF to advocate for a comprehensive programme for the protection of children that would include coordinating the preparation of Rwanda's report to the Committee on the Rights of the Child and lobbying for laws on foster care, child labour, sexual violence against children, juvenile justice, inheritance;

(h) Press for improvements in the situation created by the suspension, for persons suspected of genocide, of the basic safeguards provided under the Rwandan Penal Code, which was introduced in 1996, extended in 1998 and extended again in December 1999 for another 18 months; press for a cancellation of the suspension;

(i) Organize workshops with national institutions and organizations representing all the sectors of civil society in Rwanda, in order to remain in close contact with the needs and concerns of civil society in Rwanda;

(j) Organize, in particular, a workshop with the Association of Rwandan Journalists to review the new press law and develop a press code of conduct;

(k) Serve as an intermediary between Government and human rights NGOs in discussions on the new draft law on NGO registration.

The international community - international NGOs

225. The Special Representative wishes to express his deep appreciation to the international non-governmental organizations that have supported Rwanda since 1994. Many have been mentioned by name in this report. They can take comfort from the fact that their efforts are definitely bearing fruit. This is evident from the solid improvements in the justice system, in prison conditions, and in the growing confidence of Rwandan civil society.

226. International NGOs have unique assets in the form of international membership, links to donors, access to the United Nations system, and advocacy skills. These can be exceptionally valuable to Rwandan counterparts. The Special Representative can also imagine many new interventions. For example, international women's organizations might assist the victims of rape who will be called upon to testify at the gacaca trials. Working with Rwandan women's groups, they might also offer their expertise to the Ministry of Justice and Chief Prosecutor, who will shortly take on a greatly increased number of cases of sexual violence. The Special Representative will use his good offices to identify potential new partnerships (for example, between the Inter-parliamentary Union and the Rwandan National Assembly).

227. The Special Representative hopes that more international NGOs will find it possible to invest in a full-time presence in Rwanda. The Special Representative applauds, in this

connection, Human Rights Watch and Africa Rights, two organizations which have won the confidence of Rwandans and also increased their own credibility by establishing offices in the country.

228. The Special Representative calls upon international NGOs to pay particular attention to regional initiatives by civil society in the Great Lakes area. They could also focus on the human rights aspects of development aid. The Special Representative is assured that multilateral economic aid is more responsive today to human rights considerations than it was before the 1994 genocide. International human rights groups should hold development banks and donors to this pledge.

Bilateral donors

229. The contribution of donor Governments to Rwanda's transition is essential, and the Special Representative is particularly grateful to those donors that take the time to target assistance to small human rights projects. These require patience and commitment from individuals. At the same time, human rights assistance could be greatly improved.

230. The Special Representative urges Rwanda's donor partners to reinstate issues relating to justice and detention to the top of their lending priorities. This will require political support from capitals. The Special Representative urges donors to convene, in consultation with the Rwandan authorities, a meeting to draw up a comprehensive package of measures in support of justice reforms, improved prison administration and gacaca trials that would reflect the interdependent nature of these components. Specific tasks could then be allocated to donors, depending on their own lending criteria.

231. Such a package of support should be developed in Rwanda with the Government and civil society, and on the basis of mutually agreed benchmarks. In this regard the Special Representative would commend the memorandum of understanding that was signed on 12 April 1999 by the Secretary of State for International Development of the United Kingdom and the Vice-President of Rwanda. It contains clear goals, developed through partnership, and could well serve as a good basis for similar understandings.

232. Among the components of a package of support could be:

(a) Donors should develop practical links with the Rwandan Ministry of the Interior and support the Ministry's efforts to expand the Gishari police training centre to accommodate prison guards. They should support the work of NGO projects that are linked to prison releases in communes and pay regular visits to detention centres;

(b) Donors should support the creation of a liaison office on gacaca under the umbrella of an NGO, to serve as a link with the Government, civil society and the Supreme Court; support community service in a selected number of communes; support monitoring of gacaca trials by Rwandan civil society;

(c) Donors should improve the effectiveness of their assistance to Rwandan human rights groups by extending the duration of projects and building in more costs for overheads and salaries. European Union aid should also be speeded up;

(d) Donors should respond to the suggestion contained in the report of the Independent Inquiry of 15 December 1999 and establish a fund to provide legal restitution for survivors in genocide cases; they should also designate an appropriate mechanism in Kigali for survivors' groups;

(e) Donors should continue the constructive dialogue already begun with the Rwandan National Human Rights Commission and assist it to conduct an inventory of human rights initiatives, with a view to identifying gaps, ensure that the Commission is provided with technical assistance and adequate resources;

(f) Donors should provide support for the National Assembly's human rights committee;

(g) Donors should respond to the efforts of the Government to ensure the consensual nature of imidugudu by supporting a number of pilot villages.

The United Nations system

233. The Special Representative would like to underline again that the United Nations has a crucial role to play in Rwanda's transition, and that the will exists on both sides to repair what has been a difficult relationship. This will require understanding on each side of the pressures and constraints that face the other. The Special Representative would urge that support be very specific, as suggested by the Independent Inquiry.

The United Nations High Commissioner for Human Rights

234. The Special Representative commends the High Commissioner for Human Rights for her readiness to build a new relationship with Rwanda. Both sides are feeling their way, and the Special Representative is delighted to be able to help and advise. He also hopes that the High Commissioner will be able to expand her support for the National Human Rights Commission and the National Unity and Reconciliation Commission in Rwanda. Specific proposals are under review by her Office in Geneva. The High Commissioner also recently dispatched to Rwanda a delegation headed by her coordinator for African programmes on a needs-assessment mission. Her continued cooperation with the Special Representative was illustrated by the holding of the round table last October.

The United Nations Development Programme (UNDP)

235. UNDP plays a central role in the coordination, funding and implementation of United Nations human rights technical assistance in Rwanda since the withdrawal of the United Nations field operation. The improved security in Rwanda, the growing confidence of the Government and the strengthening of civil society provide UNDP with a major opportunity, which calls for strengthening and upgrading UNDP's human rights capacity in Rwanda.

236. The Special Representative hopes that this opportunity will be understood and exploited. He applauded the initiative by UNDP to establish a Justice and Human Rights Unit in Kigali, but he is concerned that this unit remains severely underfunded and understaffed. Among the tasks suggested for this unit are:

(a) To prepare and circulate a written summary of donor initiatives undertaken in the justice area so as to avoid duplication between projects; to resume regular thematic meetings on justice and detention;

(b) To invite officials from the Ministry of the Interior (prisons and police) to human rights coordination meetings;

(c) To meet regularly with all Rwandan human rights NGOs and extend such meetings to women's associations, survivors, press and media; to encourage studies and monitoring of economic and social rights, with special emphasis given to land and property;

(d) To work with the National Human Rights Commission and the National Unity and Reconciliation Commission. UNDP has allocated $800,000 for several Rwandan institutions including the two national commissions, and proposes to recruit an international technical adviser for the NHRC for an initial four-month period. This should be speedily expedited;

(e) To disseminate international human rights instruments (including the Declaration on Human Rights Defenders), the Special Representative's report, the UNDP 1999 Human Development Report on Rwanda, with a view to discussing its human rights implications.

The Committee on the Rights of the Child

237. The Committee should formally request the Government of Rwanda to submit its follow-up report on the Convention, which is now several years late. Such a request would stimulate national debate around a comprehensive programme of child protection.

The International Criminal Tribunal

238. The Special Representative hopes that the Tribunal can move quickly to offer technical advice to Rwanda's overburdened justice system in areas such as sexual violence, where the Tribunal has unequalled expertise.

239. The Special Representative would also like to reiterate his strong appeal to the international community to cooperate fully with the Tribunal regarding suspected génocidaires, thereby also strengthening among the Rwandan society the sense that impunity is being removed and coexistence made possible.

Peace, security, economic development and human rights

240. It is, of course, evident that the fundamental requirements of any human society are closely interlinked. This is particularly the case in the Great Lakes region of Africa. If there is no respect for human rights, how can economic development, peace and security prevail in the

region? And if there is no peace and security, how can human rights and economic developme prevail? This is why it is of the utmost importance, for Rwanda and for all the countries in the Great Lakes region, that a comprehensive regional solution is found to the present conflicts affecting them.

241. The Special Representative appeals for full respect for the Lusaka peace agreements. H appeals to all the countries in the region, to the Organization of African Unity and to the United Nations to use all possible means to ensure that a lasting and comprehensive peace is agreed upon by all the affected countries, and that all the populations in the area are provided with durable peace and security and with appropriate means to ensure their economic development and prosperity. This is the only viable method to obtain a sustainable culture and respect of human rights in the area.

Notes

[1] The mandate of the Special Representative, contained in resolution 1997/66 of 16 April 1997 is "to make recommendations on how to improve the human rights situation in Rwanda, to facilitate the creation and effective functioning of an independent national human rights commission [and] to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate" (para. 20).

[2] See A/53/402, paras. 12-19.

[3] A government study of displaced persons in June also found that only 53 per cent of the population in the north-west had access to their own land.

[4] Rwanda is organized at four administrative levels. In ascending order these are the cell, the sector, the commune and the prefecture. At present the country's administrative structure comprises 9,264 cells, 1,064 sectors, 154 communes and 12 prefectures. There are 9,264 cells and 1,064 sectors in the country.

[5] There are in addition, at the sector level, Sectoral Councils (Conseil de Secteur) composed of representatives of each cell in the sector as well as the representatives of the sector's Executive Committee. In addition, two wise persons, two women and two youths are members of the Sectoral Council. Their main responsibilities are to approve or modify decisions taken at the lower levels and take appropriate action to find solutions to current problems. Decisions at all levels are taken by consensus.

[6] This committee of the National Assembly should not be confused with the newly established national Human Rights Commission.

[7] Articles 2, 3 and 4 of the law stipulate that: "the Commission is independent" (art. 2), "the Commission has as an objective to investigate and follow up on human rights violations committed by anyone on the Rwandan territory, especially State organs and individuals under the cover of the State organs as well as any national organization working in Rwanda" (art. 3), "in particular, the functions of the Commission are: to sensitize and train the Rwandese population in matters of human rights; on informing relevant authorities to eventually initiate judicial proceedings in case of human rights violations by anyone" (art. 4).

[8] The law specifies that: the Chairman of the Commission would hold the rank of Minister; the other members would hold the rank of Secretary-General; and that in the exercise of their duties they are subject only to the jurisdiction of the Supreme Court. This means, according to the President of the National Assembly, that they will enjoy immunity equivalent to that of members of parliament.